

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

DUSTI THOMPSON, Individually, On	§	
Behalf of the Estate of Scott Thompson,	§	
Deceased, and on behalf of All Wrongful	§	
Death Beneficiaries,	§	
Plaintiff	§	
	§	
v.	§	Civil Action No. 3:20-cv-02170-L
	§	
WING ENTERPRISES, INC. d/b/a	§	
LITTLE GIANT LADDERS, and	§	
HAROLD ARTHUR WING,	§	
Defendants	§	

**Declaration of Brian Russell**

1. My name is Brian Russell. I am the current Director of Engineering for Wing Enterprises, Inc. (now known as Little Giant Ladder System, LLC). I am over the age of eighteen (18) and am fully competent to execute this Declaration. All of the facts stated herein are within my personal knowledge and/or were gathered at my direction from persons employed by Wing Enterprises, Inc. and/or from documents I have reviewed or researched at Wing Enterprises, Inc.

2. I obtained an Associate of Applied Science degree in Engineering Design/Drafting Technology from Salt Lake Community College in December 2002. From January 2003 through January 2009, I worked for SKF Polyseal in Salt Lake City, Utah as a Tool Designer. As a Tool Designer, I designed products, produced 3D computer models, interpreted blueprints and schematics for conformance with performance specifications, and drafted technical documentation including detailing design specifications. In June 2009, I began working for Wing Enterprises, Inc. dba Little Giant Ladder Systems in Springville, Utah as a Design Engineer wherein I designed products to meet OSHA and ANSI standards, oversaw testing of product designs, and produced prototypes. In May 2016, I was promoted to the Director of Engineering at Wing Enterprises, Inc. dba Little Giant Ladder Systems wherein I oversaw and managed the Engineering Department and directed projects aimed at improving manufacturability, innovation and cost reduction among other typical engineering duties as previously described. I am listed on over one hundred fifty (150) U.S. and foreign patents. In addition, I serve on and as a member of ANSI committees A14 (Ladder Standards) and A14.2 (applicable to portable metal ladders).

3. Wing Enterprises, Inc. started as a company in 1986 in Springville, Utah. Wing Enterprises designs and produces ladders of all types including step ladders; step stools; A frame ladders; traditional extension ladders; specialty ladders; and articulated extendable ladders such as the one involved in this lawsuit. Wing Enterprises is always seeking to develop new, exciting and innovative products that are consumer friendly, functional, provide new features, and are unique.

New designs also provide Wing Enterprises an opportunity for additional patents which may benefit the company in the future.

4. Wing Enterprises sells and has sold ladders with different features through a variety of medium including but not limited to online website sales, phone sales; and sales to specific retailers such as Lowe's, Home Depot, Costco, and others per request. These retailers want to distinguish the Little Giant ladders sold in their stores from the Little Giant ladders sold in their competitors' stores. As a result, retailers may request production of a ladder in a different color, with a different name, made of different materials, and/or different features depending on the target market and goals of the retailer. As a result, Wing Enterprises has hundreds of named models in different types, sizes, lengths, materials, accessories, and with different features.

5. The ladder in question which was being used by Mr. Thompson at the time of the accident was an Xtreme model M22. The ladder was equipped with Rock Lock design 1.0. I have seen photos of the ladder in question and the date code indicates that the ladder was manufactured in the second week of October 2016 in Suzhou, China. According to records produced by Plaintiff in this litigation, it appears as though the Plaintiff purchased the Xtreme M22 on or about February 2017 (see Thompson 00085).

6. During the course of this litigation, Plaintiff's counsel has submitted approximately 174 different requests for production of documents in addition to sixteen (16) additional document requests attached to a deposition notice. Wing Enterprises has already produced the entire engineering file for the Rock Lock design 1.0 which was the locking mechanism design incorporated into the Xtreme M22 ladder involved in this accident. Neither the Xtreme M22 ladder nor the Rock Lock design 1.0 have ever been recalled.

7. Some of the characterizations made by Plaintiff and Plaintiff's engineers (Gerhard Fuchs, Ph.D. and Scott Schroeder, Ph.D., P.E.) in Plaintiff's Brief In Support of Objections to the Magistrate Judge's Electronic Order of January 19, 2022 are inaccurate. Those inaccuracies include, at least, that the Plaintiff's engineers assert that there are at least four (4) different designs of the Rock Lock system. To the contrary, there are three (3) different Rock Lock designs. Those designs include Rock Lock design 1.0; design 2.0; and design 3.0 (although a slight change was made to design 2.0 and that change is, sometimes, informally referred to as version 2.1). Minor variations within each design concept include the color or type of material used for particular components (for example, Rock Lock design 1.0 utilizes an aluminum rocker handle which is used to engage the Rock Lock and alternatively, an orange plastic rocker handle), or different rivet patterns affixing the Rock Lock to the ladder.

8. The effort by Plaintiff's counsel to characterize six (6) different designs in Plaintiff's Brief In Support of Objections to the Magistrate's Order is mistaken (see pp. 4-5 of Plaintiff's Brief – Dkt. 37). The table below sets forth the identification used by Plaintiff for each version as well as the actual design depicted in Plaintiff's Brief.

Plaintiff's Characterization of Rock Lock designs on pp. 4-5 of Plaintiff's Brief In Support of Objections to Magistrate's Order:	Actual design of Rock Lock depicted in Plaintiff's Brief In Support of Objections to Magistrate's Order:
Version 1 (Subject ladder)	Rock Lock design 1.0
Version 2 (Revolution ladder)	Rock Lock design 1.0 (utilizing an aluminum rocker handle as opposed to an orange plastic rocker handle)
Version 3	Rock Lock design 2.0
Version 4 (Select Step)	Rock Lock design 1.0 (the ladder to which this lock is affixed is not an articulating extendable ladder such as was involved in this case; instead it is an adjustable step ladder in a permanent A frame position)
Version 5 (Velocity ladder)	Rock Lock design 3.0
Version 6 (Epic ladder)	The locking mechanism depicted in Plaintiff's Version 6 is not a Rock Lock. Instead, it is known as a Rapid Lock which is a twist lock. This type of locking mechanism is used on Leveler ladders.

9. Plaintiff's Objections to the Magistrate Judge's Electronic Order and Plaintiff's Brief also inaccurately characterize the history of the Rock Lock systems. Plaintiff's statement that "it appears that Wing had designed, manufactured, incorporated and sold at least three newer/safer designs of the Rock Lock prior to its sale of the original design 1.0 Rock Lock that was sold to Plaintiff and Scott Thompson" (see p. 3 of Plaintiff's Brief In Support of Objections) is factually mistaken. All of Wing Enterprises' Rock Lock designs are safe for consumer use when used correctly in accordance with the instructions and warnings in the User's Manual and the warnings on the labels affixed to each ladder.

10. Rock Lock design 1.0 was initially manufactured after design in 2007 and Wing Enterprises continues to manufacture and utilize Rock Lock design 1.0 on certain models of specialty ladders. Wing Enterprises introduced the Rock Lock 1.0 in 2007 or 2008 as an alternative to "J locks" which were prevalent at that time on a variety of ladders manufactured by different manufacturers. The Rock Lock design 1.0 was created to be more user friendly (i.e. easier for the consumer to use) and to distinguish itself from the J locks being used on other ladders. The name Rock Locks was established, in part, as a marketing effort to distinguish the Wing Enterprises locking mechanism from other more generic locking mechanisms and to create valuable intellectual property assets for the company. The Rock Lock design 1.0 continues to be used on specialty ladders which Defendant produces for law enforcement and fire departments.

11. Rock Lock design 2.0 was not the successor to Rock Lock design 1.0 as implied by Plaintiff in her Brief in Support of Plaintiff's Objections to the Magistrate Judge's electronic order. Instead, Rock Lock 2.0 was developed as an innovative effort to produce a new design that might be more user friendly than the Rock Lock design 1.0. Rock Lock design 2.0 was initially developed and placed into production in late 2015 and was continuously produced and equipped on models other

than the Xtreme series of ladders through April 2018 at which time ladders were no longer equipped with Rock Lock design 2.0 or any variation thereof. Wing Enterprises, Inc. voluntarily recalled the Velocity ladder equipped with Rock Lock design 2.0 on or about March 23, 2017 after two (2) incidents of locking pin failures were reported even though there were no reported instances of personal or bodily injury. See the true and correct information I obtained from the United States Consumer Product Safety Commission related to the recall of the Velocity ladder attached hereto and incorporated herein by reference as Exhibit 1 to my Declaration. While not indicated on the Exhibit 1, the recall resulted from a scenario in which a user applies an upward force on the Rock Locks connecting the inner and outer sections. Such forces would not typically be applied by ladder users. Rock Lock design 2.0 nor any variation thereof, is not currently produced for sale on any model ladder sold by Defendant.

12. Some of the differences between Rock Lock design 1.0 and design 2.0 can be easily seen when compared side by side as is shown in the photographs below. The first photograph below depicts a Rock Lock design 1.0 on the left of the photograph and a Rock Lock design 2.0 on the right side of the photograph. Each of the Rock Locks depicted in the photograph below are shown in what would be a position of engagement if properly attached to the outer section rail of the applicable model ladder. In the engaged position, the barrel pin would go through the outer channel and into an opening on the inner channel to hold the ladder in the desired position (length). To disengage the Rock Locks (either), one would press down on the bottom of the rocker handle which would cause the barrel pin to retract out of the inner channel and thereby allowing the user to adjust the length of the ladder to the desired position. As one can see, the Rock Lock design 1.0 (on the left) has two (2) rivets intersecting the rocker handle and/or barrel pin mechanism. The rivet nearest the barrel pin intersects the barrel pin whereas the rivet further away from the barrel pin acts as the pivot point when the Rock Lock is engaged or disengaged. This design allows the barrel pin (the round metallic cylinder) to move in a linear fashion in and out of the channels on the ladder when the locking mechanism is engaged or disengaged. Rock Lock 2.0 (on the right) has only one (1) rivet intersecting the rocker handle and barrel pin mechanism. As a result, the pivot point for the barrel pin component is further away from the barrel pin and allows the barrel pin to move in an arc as it engages and disengages the channels on the ladder. One can also see the difference in the length of the underlying plate that attaches to the ladder's outer channel with the Rock Lock design 1.0 having a shorter connection plate and the Rock Lock 2.0 having a longer connection plate.



13. The next picture below also depicts a comparison of Rock Lock design 1.0 and Rock Lock design 2.0; however, in this orientation, one is viewing the underside of the Rock Lock mechanisms where they attach by rivets to the outer channel of the ladder. Again, Rock Lock design 1.0 is on the left while Rock Lock design 2.0 is on the right. Again, the differences between Rock Lock design 1.0 and Rock Lock design 2.0 are easily discernable. Rock Lock design 1.0 (on the left) attaches to the ladder with two (2) rivets below the barrel pin whereas Rock Lock design 2.0 (on the right) attaches to the ladder with four (4) rivets. In addition, with Rock Lock design 1.0, the barrel pin is separated from the outer channel of the ladder by the connection plate. Rock Lock design 2.0 utilizes a different type barrel pin that is connected to the plate at its base.



14. Rock Lock design 3.0 was designed and produced as a more cost effective alternative to Rock Lock design 1.0 and design 2.0. Rock Lock design 3.0, in part, sought to streamline the labor



and manufacturing processes while also increasing consumer usability. Rock Lock design 3.0 was not in production at the time Plaintiff purchased the ladder in 2017. Instead, Rock Lock design 3.0 was first equipped on ladders for sale on or about May 29, 2018. As a result, Rock Lock design 3.0 was not manufactured or equipped on any ladder at the time when Plaintiff purchased the ladder in question in February 2017.

15. Plaintiff has, throughout the course of this litigation, forwarded 174 separate requests for production seeking documents of all sorts related to all models of ladders and all models of locking mechanisms. I was tasked with the responsibility to seek out and produce all of these documents. I have sought assistance from numerous individuals in the engineering, quality, IT, sales, marketing, and customer service departments. I have sought assistance from approximately thirty (30) persons within Wing Enterprises, Inc. who have spent countless hours searching for documents potentially responsive to Plaintiff's numerous technical requests. During the course of our work to locate documents, we limited our search to the parameters set forth in the Magistrate Judge's Electronic Order of January 19, 2022. If I were required to go back and search for files, emails, drawings, communications, claims, returns, and other documents related to all ladders or other locking mechanisms, it would cost Wing Enterprises, Inc. hundreds of lost work hours in productivity and tens of thousands of dollars in wages paid to those persons charged with locating the requested documents.

16. The above and foregoing statements were made by me and are true and correct based on my personal knowledge and research of company information. These statements are made under the penalty of perjury. I executed this Declaration in Springville, Utah. Signed on this 22 day of February, 2022.

  
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Brian Russell



United States  
CONSUMER PRODUCT  
SAFETY COMMISSION

## Wing Enterprises Recalls Little Giant Ladders Due to Fall Hazard

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Recalled 15413-001 Little Giant Velocity M13



**Name of Product:**

Multipurpose ladders

**Hazard:**

The **multipurpose ladder's** locking pins/rung fasteners can fail, posing a fall hazard to consumers on the ladder.

**Remedy:**

Repair

**Recall Date:**

March 23, 2017

**Units:**

About 37,000

Consumer Contact



Wing Enterprises toll-free at 855-595-3378 from 8 a.m. to 5 p.m. MT Monday through Friday or online at [www.littlegiantladders.com](http://www.littlegiantladders.com) and click on RECALL at the top of the home page for more information.

## Recall Details

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### Description:

This recall involves Little Giant Velocity™, LT™ and Liberty™ multipurpose ladders. The ladders have joints that allow it to bend and lock in various positions. “Little Giant,” the model name, model number and part number are printed on the side of the ladder.

<b>Little Giant Velocity</b>	<b>Part Number</b>	<b>Little Giant LT</b>	<b>Part Number</b>
Model 13	15413-001	Model 13	14313-001
Model 13	15413-025	Model 17	14317-001
Model 17	15417-001	Model 17	14317-303
Model 17	15417-161	Model 22	14322-001
Model 22	15422-001		
Model 22	15422-014	<b>Little Giant Liberty</b>	
Model 26	15426-001	Model 17	14717-139

below the red locking pin.

### **Date Codes**

10161P	10361P	10362P	10363P	10364P	10461P	10462P
10463P	10464P	10561P	10562P	10563P	10564P	10661P
10662P	10663P	10664P	10761P	10762P	10763P	10764P
10861P	10862P	10863P	10864P	10961P	10962P	10963P
10964P	11061P	11062P	11063P	11064P	11161P	11162P
11163P	11164P	11252P	11254P	11261P	11262P	11263P
11264P						
10361S	10362S	10363S	10364S	10461S	10462S	10463S
10464S	10561S	10562S	10563S	10564S	10661S	10662S
10663S	10664S	10761S	10762S	10763S	10764S	10861S
10862S	10863S	10864S	10961S	10962S	10963S	10964S
11061S	11062S	11063S	11064S	11161S	11162S	11163S

**Remedy:**

Consumers should immediately stop using recalled ladders and contact Wing Enterprises for a free repair kit with ABS nylon inserts that the customer can install without the use of tools.

**Incidents/Injuries:**

Wing Enterprises has received two reports of locking pins/rung fasteners failing. No injuries have been reported.

**Sold At:**

AAFES, NEXCOM, PPG Paints stores nationwide and online at Amazon.com, DirectBuy.com, Eladders.com, Grainger.com, Groupon.com, Homedepot.com, Houzz.com, Laddersales.com, LittleGiantLadder.com, Lowes.com, Overstock.com, Samsclub.com, Target.com, Wayfair.com, Zorotools.com, 1800Ladders.com and other Web retailers from March 2016 through February 2017 for between \$200 and \$320.

**Manufacturer(s):**

Suzhou Zhongchuang Aluminium Products Co. Ltd. and Suzhou PICA Aluminum Industry Ltd.,  
of China

**Manufactured In:**

China

Importer(s):

Wing Enterprises Inc., of Springville, Utah

Recall number:

17-113



This recall was conducted, voluntarily by the company, under CPSC's Fast Track Recall process. Fast Track recalls are initiated by firms, who commit to work with CPSC to quickly announce the recall and remedy to protect consumers.